IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Pending

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 273-8300.

Laura A. Wade

In re Application of

Chen et al.)
Serial No.: 10/676,965) Examiner: Kwasi Karikari
Filed: October 1, 2003) Group Art Unit: 2617
For: Method and Apparatus to Improve CI Reverse Link Performance) Confirmation No.: 8121 DMA)
Attorney's Docket No: 4740-212)
Mail Stop Appeal Brief-Patents Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]
	I hereby certify that this correspondence is being:
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RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

December 10, 2007 Date

This correspondence is being:

☑ electronically submitted via EFS-Web

In response to the Notification of Non-Compliant Appeal Brief mailed by the Office on 19 November 2007, Applicant timely resubmits herewith copies of the originally-filed Appeal Brief, filed 24 August 2007. No changes were made to the Appeal Brief because the compliance requirements stated in the Notification are inconsistent with the controlling requirements appearing in 37 C.F.R. § 41.37. In other words, Applicant believes that the examiner has asked Applicant to comply with requirements that are inconsistent with the governing rules.

In more detail, the Notification states that 37 C.F.R. § 41.37(c)(1)(v) requires that the "Summary of Claimed Subject Matter" section in the Brief must include details for each dependent claim that is separately argued in the subsequent "Argument" section. In contrast,

Appeal Brief for Application Ser. No. 10/676,965

Attorney Docket No. 4740-212

Client Ref. No. P18368

Applicant's reading of the regulation is that only separately argued dependent claims in means

plus function form must be detailed in the Summary section. In February 2006, a Mr. Dale

Shaw of the Board of Patent Appeals and Interferences (571-272-9797) left a voice mail with

Michael D. Murphy confirming that 37 C.F.R. § 41.37(c)(1)(v) does not require detailing

separately argued dependent claims in the Summary section of the Brief, unless those claims

are in means-plus-function form. Michael D. Murphy (Registration No. 44, 958) is an attorney

serving as one of the applicant's representatives.

In short, the undersigned believes that the Brief was rejected as non-compliant only

because it did not detail the separately argued dependent claims in its Summary and that such

details are not actually required by the regulations unless the dependent claims are in means-

plus-function form. (The dependent claims at issue here are not in means-plus-function form,

nor has the examiner alleged such.) On that basis, and in response to the Notification of Non-

Compliant Appeal Brief, the originally-filed Brief is resubmitted herewith.

If this resubmission is deemed in any way to be less than fully responsive to the

Notification, the applicant respectfully requests a more detailed explanation of the Brief's points

of non-compliance and a further opportunity to bring the Brief into full compliance.

Respectfully submitted.

COATS & BENNETT, P.L.L.C.

Dated: 10 December 2007

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